IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.8373 OF 2005

Raibhan Ranoba Kadam & Anr. ...Applicants
Versus
State of Maharashtra ...Respondent

Mr.A.R.Shaikh, for the Applicants.
Mr.S.S.Tatkare, A.P.P for the Respondent.

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 22, 2005.

P.C.:

. Perused the application and the annexures thereto, including the order enlarging the other accused on bail. After six days from the date of the dead body being discovered, the father of the deceased, on the basis of a note found on the dead body, filed a complaint alleging that the applicants and others have abetted the suicide of the deceased - Vishnu. The said allegation is on the ground that the deceased Vishnu was unwilling to marry applicant No.3 after their relations resulted in birth of a child. It is upon compulsion and pressure brought on him by the applicants as also the other relations of the girl that he had got married and later on committed suicide. Prima-facie, once other accused are enlarged on bail also because of the fact that the charge-sheet was not filed within the period specified in law, the present applicants including the wife of the deceased deserve to be protected.

2. It is unfortunate that the learned Additional Sessions Judge despite repeatedly being called to take cognizance of all these aspects, has refused to take them into account and has proceeded to dismiss the applications for anticipatory bail on two occasions necessitating the applicants to move this Court. It is further unfortunate that the Courts below have not been paying attention to the mandate of Section 438(1) of the Code of Criminal Procedure and the principles which are to be applied while considering a application for release in the event of arrest in the case of a non-cognizable offence under Code of Criminal Procedure. Hence the following order :

i) In the event of the arrest of the applicants in connection with C.R.No.A-58 of 2005 registered with Railway GRP Manmad, the applicant shall be enlarged on bail in the sum of Rs.5000/- each with one/two sureties in the like amount.

ii) Applicants shall report to GRP Manmad Railways as and when required.

iii) Bail is granted subject to the condition that applicants shall not directly

make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI,J.)